



## ENERGY AND ENVIRONMENT CABINET

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
DIVISION OF WASTE MANAGEMENT  
200 FAIR OAKS, 2<sup>ND</sup> FLOOR  
FRANKFORT, KY 40601  
TELEPHONE NUMBER (502) 564-6716

Escrow Agreement  
Form DEP 7094G (11/08)

### GENERAL INFORMATION

- 1. ASSISTANCE** – Questions regarding this form may be directed in writing to the Division of Waste Management, Solid Waste Branch at the address listed above, or by calling (502) 564-6716.
- 2. SUBMISSION** – Please type or print legibly in permanent ink. Submit the original of the completed form to the Division of Waste Management at the address listed above. The document must be free of errors.

THIS AGREEMENT, made, executed, and delivered this the            day of            ,  
20            , by and between            , as Applicant, and            , and the Kentucky Energy and  
Environment Cabinet (hereinafter Cabinet).

WITNESSETH:

WHEREAS, Applicant desires to obtain a permit to construct and/or operate a special  
waste facility in the Commonwealth of Kentucky; and

WHEREAS, the regulations of the Commonwealth require that a bond be posted to insure  
proper closure, closure care of the facility and if required, corrective action to guarantee  
performance of the requirements in KRS Chapter 224 and the regulations promulgated  
pursuant thereto, and

WHEREAS, the Applicant desires to meet the bonding requirements for constructing  
and/or operating special waste site or facility in the Commonwealth of Kentucky by  
executing such bond and posting surety in the sum of            dollars (\$) with the  
Cabinet to be held by Escrow Agent, which sum is hereby acknowledged by the Cabinet  
to be sufficient and acceptable for the permit application number            , relating to  
acres located at            in            County, Kentucky; and

WHEREAS, such sum shall be placed in the safe custody of the Escrow Agent and the  
Agent is directed to purchase certificates of deposit of the            , which certificates of  
deposit are hereinafter referred to as The Certificates, and are more fully described as  
follows, to wit:

CERTIFICATE #:

DATE OF ISSUANCE:            -            -           

PRINCIPAL AMOUNT:



AND WHEREAS, the Agreement is a supplement to the bond filed by the Applicant with permit application number \_\_\_\_\_ for a permit to construct and/or operate a special waste site or facility.

NOW, THEREFORE, in consideration of the premises set forth herein, the parties hereto mutually agree as follows:

1. The Escrow Agent hereby acknowledges receipt of the Certificates listed above listed, to be safely and securely kept for the stated purposes of this Agreement and subject to the terms and conditions herein, and hereby binds itself to perform completely under the terms of this Agreement and to dispose of the Certificates or the proceeds there from only as provided herein. The Escrow Agent further agrees to exercise due care in the safekeeping and delivery of The Certificates;
2. The parties agree The Certificates or any subsequent Certificates are and shall be made payable in favor of the Escrow Agent only and the parties further agree that until such time as the Cabinet orders that the bond for the permit application be forfeited or until such time as the bond is released, all interest accruing on The Certificates shall be disposed of in accordance with paragraphs 4 and 5 of this agreement;
3. The parties agree that the Escrow Agent is hereby authorized and directed to insure that The Certificates remain in full force during the term of this agreement and the Escrow Agent, may, upon notice to all parties, and upon the maturity of The Certificates, issue new Certificates of face value equal to the outstanding amount of the bond. In the event of such issuance, the new Certificates shall replace The Certificates shall replace The Certificates herein for all purposes and shall be subject to the conditions of this Agreement;

4. Any interest accruing on The Certificates shall be held by Escrow Agent until such time as the bond has been released or forfeited or The Certificates have matured and been replaced by new Certificates. No interest shall be paid to the Applicant on any Certificate until such time as The Certificate matures or a full release has been obtained from the Cabinet or until the bond has been forfeited and any penalty resulting from the cashing of the Certificate has been satisfied;
5. In the event of the forfeiture of the performance bond herein and upon the Cabinet's written notice of such forfeiture to the Escrow Agent, the Escrow Agent shall promptly cash The Certificates and forward to the Cabinet a Cashier's Check in the outstanding amount of the bond, pay any penalties which result from the cashing of The Certificates from the interest accrued thereon, and remit any remaining interest and principal to the Applicant;
6. The parties agree that neither the Escrow Agent nor the Cabinet shall be liable for any loss of interest which may result to the Applicant as a result of an order of forfeiture;
7. The Escrow Agent shall not be liable for inquiring whether there has been performance by the Applicant or to see the application of any monies paid on the instruction of the Cabinet and in such matters the Escrow Agent may rely upon the instructions of the Cabinet executed by the Secretary of the Cabinet, his designee, or his successor or the successor agency as provided by law. The Escrow Agent need not verify the apparent authority of an agent of the Cabinet in carrying out the Cabinet's instructions. Nothing herein shall prevent the Commonwealth from designating a person authorized to act for it in any other lawful manner;
8. That for value received the Applicant does hereby assign, transfer, and set over to the Commonwealth of Kentucky all right, title, and interest which the applicant



- may have in The Certificates. The parties agree that The Certificates are being held solely for the benefit of the Commonwealth of Kentucky and that the Applicant has relinquished all right, title, and interest to The Certificates as provided herein. The Applicant may not pledge or encumber in any manner The Certificates or any renewal certificates, or the interest due thereon, so long as the same are subject to the conditions of the bond herein;
9. The Cabinet agrees that upon completion of proper closure and post closure, or corrective action of or for the special waste site or facility and upon the Cabinet's inspection and certification of same the Cabinet shall release the bond herein and promptly notify the Escrow Agent and the Applicant of such release.
  10. It is agreed, as between the parties, that in the event the Escrow Agent closes or goes into receivership, any Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or National Credit Union Administration insurance proceeds paid on, to, or as a result of The Certificates, shall first be applied to cover The Certificates;
  11. The parties agree that the Escrow Agent shall be the Cabinet's agent for holding The Certificates for the purpose of perfecting the Cabinet's security interest in those Certificates under KRS Chapter 355.
  12. This agreement shall be binding upon the successors and assigns of the respective parties; and
  13. Upon receipt by the Escrow Agent of written notification by the Cabinet of the forfeiture or the release of the bond herein, and disbursement pursuant to this agreement by the Escrow Agent of written notification by the Cabinet of the forfeiture or the release of the bond herein, and disbursement pursuant to this agreement by the Escrow Agent of The Certificates or the proceeds there from and any interest accrued thereon, the Escrow Agent shall be discharged of any and all duties and liabilities arising out of or as a result of the Agreement.

SIGNED, SEALED, AND DELIVERED, THE day and date first above written by the appropriately authorized officers.

**Applicant Signature:** \_\_\_\_\_

**Type or Print Name:**

**Official Position:**

**Date:**        -        -

**Escrow Agent Signature:** \_\_\_\_\_

**Type or print name:**

**Official Position:**

**Date:**        -        -